

Column Number 1	2	3	4	5	6	7	8
Site name	Management Region	Boundaries from		Boundaries to 1		Atka mackerel no fishing zone <sup>2,4</sup>	All pot vessels exempt from Atka mackerel fishing closures <sup>3</sup>
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	(nm)	
Yunaska I.	Aleutian Islands	52 41.40 N	170 36.35 W			20	
Unalaska/Bishop Pt	Bering Sea	53 58.40 N	166 57.50 W			10	Y
Akun I./Reef-Java	Bering Sea	54 08.10 N	166 06.19 W	54 09.10 N	166 05.50 W	10	Y
Akun I./Billings Head	Bering Sea	54 17.62 N	165 32.08 W	54 17.57 N	165 31.71 W	10	Y
Unimak/Cape Sanchez	Bering Sea	54 34.30 N	164 56.80 W			10	Y
Sea Lion Rock (Aniak)	Bering Sea	55 27.82 N	163 12.10 W			10	
Aniak I. and rocks	Bering Sea	55 24.20 N	163 09.60 W	55 26.15 N	163 08.50 W	10	

<sup>1</sup>Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.

<sup>2</sup> See 679.22(a)(12)(vii)

<sup>3</sup> See 679.22(a)(13)(ii)(B)

<sup>4</sup> No fishing zones are the waters between 3 nm and the nm specified in column 7 around each site.

<sup>5</sup> The 20 nm Atka mackerel fishery closure around the Tanaga I./Bumpy Pt. Rookery is established only for that portion of the area east of 178 degrees W longitude.

EFFECTIVE DATE NOTE 1: At 66 FR 7323, Jan. 22, 2001, Tables 12, 13, and 20 to part 679 were suspended, and Table 21 was added. However, table 20 was removed, effective Dec. 31, 2000. At 66 FR 15658, Mar. 20, 2001, the amendatory language was corrected and Tables 4, 5, and 6 to part 679 were correctly suspended, effective Jan. 18, 2001, through July 17, 2001. At 66 FR 37167, the effective date was extended through Dec. 31, 2001, except for Table 21 which expired July 17, 2001.

EFFECTIVE DATE NOTE 2: At 66 FR 37182, July 17, 2001, Tables 21, 22, 23, and 24 to part 679 were added, effective July 18, 2001, through Dec. 31, 2001. At 66 FR 44074-44085 Tables 21, 22, 23, and 24 were correctly revised, effective July 18, 2001, through Dec. 31, 2001. At 66 FR 48372, Sept. 20, 2001, Tables 22, 23, and 24 were revised again, effective Sept. 18, 2001, through Dec. 31, 2001.

## PART 697—ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT

### Subpart A—General Provisions

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AUTHORITY: 16 U.S.C. 1851 note; 16 U.S.C. 5101 *et seq.*

SOURCE: 64 FR 68248, Dec. 6, 1999, unless otherwise noted.

**Subpart A—General Provisions**

**§ 697.1 Purpose and scope.**

The regulations in this part are issued under the authority of section 804(b) of the Atlantic Coastal Fisheries Cooperative Management Act, 16 U.S.C. 5101 *et seq.*, and section 6 of the Atlantic Striped Bass Conservation Act Appropriations Authorization, 16 U.S.C. 1851 note, and govern fishing in the EEZ on the Atlantic Coast for species covered by those acts.

**§ 697.2 Definitions.**

(a) In addition to the definitions in the Magnuson-Stevens Act and in §§ 600.10 and 648.2 of this chapter, for the purposes of this part, the following terms have the following meanings:

*American lobster* or lobster means *Homarus americanus*.

*Approved TED* means any approved TED as defined at § 217.12 of this title.

*Atlantic striped bass* means members of stocks or populations of the species *Morone saxatilis* found in the waters of the Atlantic Ocean north of Key West, FL.

*Atlantic sturgeon* means members of stocks or populations of the species *Acipenser oxyrinchus*.

*Berried female* means a female American lobster bearing eggs attached to the abdominal appendages.

*Block Island Southeast Light* means the aid to navigation light located at

Southeast Point, Block Island, RI, and defined as follows: Located at 40°09.2' N. lat., 71°33.1' W. long; is 201 ft (61.3 m) above the water; and is shown from a brick octagonal tower 67 ft (20.4 m) high attached to a dwelling on the southeast point of Block Island, RI.

*BRD* means bycatch reduction device.

*Carapace length* is the straight line measurement from the rear of the eye socket parallel to the center line of the carapace to the posterior edge of the carapace. The carapace is the unsegmented body shell of the American lobster.

*Certified BRD* means any BRD, as defined in part 622, Appendix D of this chapter: Specifications for Certified BRDs.

*Charter or head boat* means any vessel carrying fishing persons or parties for a per capita fee, for a charter fee, or any other type of fee.

*Commercial dive vessel* means any vessel carrying divers for a per capita fee, a charter fee, or any other type of fee.

*Commercial purposes* means for the purpose of selling, trading, transferring, or bartering all or part of the fish harvested.

*Commission* means the Atlantic States Marine Fisheries Commission established under the interstate compact consented to and approved by Congress in Pub. L. 77-539 and Pub. L. 81-721.

*Continuous transit* means that a vessel does not have fishing gear in the water and remains continuously underway.

*CPH* means Confirmation of Permit History.

*Crab trawl* means any trawl net that is rigged for fishing and has a mesh size of 3.0 inches (7.62 cm), as measured between the centers of opposite knots when pulled taut.

*Cull American lobster* means a whole American lobster that is missing one or both claws.

*Dealer* means any person who receives, for a commercial purpose (other than solely for transport on land), any species of fish, the harvest of which is managed by this part, from the owner or operator of a vessel issued a valid permit under this part, or any person who receives, for a commercial purpose (other than solely for transport on

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land), any species of fish managed under this part.

*De minimis state* means any state where the landings are so low that the Commission's Fisheries Management Board has exempted that state from some of its regulatory responsibilities under an Interstate Fishery Management Plan.

*Dredge* means a gear consisting of a mouth frame attached to a holding bag constructed of metal rings or mesh.

*Egg Production Rebuilding Schedule* means the schedule identified in section 2.5 of Amendment 3 to the Commission's ISFMP.

*Escape vent* means an opening in a lobster trap designed to allow lobster smaller than the legal minimum size to escape from the trap.

*Fishing trip or trip* means a period of time during which fishing is conducted, beginning when the vessel leaves port and ending when the vessel returns to port.

*Fishing year* means, for the American lobster fishery, from May 1 through April 30 of the following year.

*Flynet* means any trawl net, except shrimp trawl nets containing certified BRDs and approved TEDs, when required under § 227.72(e)(2) of this title, and except trawl nets that comply with the gear restrictions specified at § 648.104 of this chapter for the summer flounder fishery and contain an approved TED, when required under § 227.72 (e)(2) of this title.

*Ghost panel* means a panel, or other mechanism, designed to allow for the escapement of lobster after a period of time if the trap has been abandoned or lost.

*Horseshoe crab* means members of stocks or populations of the species *Limulus polyphemus*.

*ISFMP* means the Commission's Interstate Fishery Management Plan for American Lobster, as amended.

*Land* means to begin offloading fish, to offload fish, or to enter port with fish.

*Lobster day-at-sea* with respect to the American lobster fishery means each 24-hour period of time during which a fishing vessel is absent from port in which the vessel intends to fish for, possess, or land, or fishes for, possesses, or lands American lobster.

*Lobster permit* means a Federal limited access American lobster permit.

*Lobster trap* means any structure or other device, other than a net, that is placed, or designed to be placed, on the ocean bottom and is designed for or is capable of, catching lobsters. Red crab fishing gear, fished deeper than 200 fathoms (365.8 m), and fishing gear fished by a vessel not issued a limited access lobster permit under § 697.4(a), are gear deemed not to be lobster traps for the purpose of this part, and are not subject to the provisions of this part.

*Lobster trap trawl* means 2 or more lobster traps, all attached to a single ground line.

*Management area* means each of the geographical areas identified in this part for management purposes under the lobster ISFMP.

*Montauk light* means the aid to navigation light located at Montauk Point, NY, and defined as follows: Located at 41°04.3' N. lat., 71°51.5' W. long.; is shown from an octagonal, pyramidal tower, 108 ft (32.9 m) high; and has a covered way to a dwelling.

*Natural Atlantic sturgeon* means any Atlantic sturgeon that is not the result of a commercial aquaculture operation, and includes any naturally occurring Atlantic sturgeon (those Atlantic sturgeon naturally spawned and grown in rivers and ocean waters of the Atlantic Coast).

*Parts thereof* means any part of an American lobster. A part of a lobster counts as one lobster.

*Point Judith Light* means the aid to navigation light located at Point Judith, RI, and defined as follows: Located at 41°21.7' N. lat., 71°28.9' W. long.; is 65 ft (19.8 m) above the water; and is shown from an octagonal tower 51 ft (15.5 m) high.

*Recreational fishing* means fishing that is not intended to, nor results in the barter, trade, or sale of fish.

*Recreational fishing vessel* means any vessel from which no fishing other than recreational fishing is conducted. Charter and head boats and commercial dive vessels are not considered recreational fishing vessels.

*Regional Administrator* means the Regional Administrator, Northeast Region, NMFS, or a designee.

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*Retain* means to fail to return any species specified under § 697.7 of this chapter to the sea immediately after the hook has been removed or after the species has otherwise been released from the capture gear.

*Sea sampler/observer* means any person required or authorized to be carried on a vessel for conservation and management purposes by regulations or permits.

*Shrimp trawl net* means any trawl net that is rigged for fishing and has a mesh size less than 2.50 inches (6.35 cm), as measured between the centers of opposite knots when pulled taut, and each try net, as defined in § 622.2 of this chapter, that is rigged for fishing and has a headrope length longer than 16 ft (4.9 m).

*Stocked Atlantic sturgeon* means any Atlantic sturgeon cultured in a hatchery that is placed in rivers and ocean waters of the Atlantic Coast to enhance the Atlantic sturgeon spawning stocks.

*TED* means Turtle Excluder Device, which is a device designed to be installed in a trawl net forward of the codend for the purpose of excluding sea turtles from the net.

*Trawl* means a cone or funnel-shaped net that is towed through the water, and can include a pair trawl that is towed simultaneously by two boats.

*V-notched American lobster* means any female American lobster bearing a V-shaped notch in the flipper next to and to the right of the center flipper as viewed from the rear of the lobster (underside of the lobster down and tail toward the viewer), or any female American lobster that is mutilated in a manner that could hide or obliterate such a mark.

*V-shaped notch* means a straight-sided triangular cut, without setal hairs, at least ¼ inch (0.64 cm) in depth and tapering to a point.

*Weakfish* means members of the stock or population of the species *Cynoscion regalis*, found along the Atlantic Coast from southern Florida to Massachusetts Bay.

*Whole American lobster* means a lobster with an intact and measurable body (tail and carapace). An American lobster with an intact and measurable body that is missing one or both claws,

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i.e., a cull lobster, is considered to be a whole American lobster.

(b) [Reserved]

[64 FR 68248, Dec. 6, 1999, as amended at 66 FR 8911, Feb. 5, 2001; 66 FR 14501, Mar. 13, 2001]

### § 697.3 Relation to other Federal and state laws.

(a) The provisions of sections 307 through 311 of the Magnuson-Stevens Act, as amended, regarding prohibited acts, civil penalties, criminal offenses, civil forfeitures, and enforcement apply with respect to the regulations in this part, as if the regulations in this part were issued under the Magnuson-Stevens Act.

(b) The relation of this part to other laws is set forth in § 600.705 of this chapter.

(c) The regulations in this part do not preempt more restrictive state laws, or state enforcement of more restrictive state laws, with respect to weakfish fishing and American lobster fishing. If a requirement of this part and a management measure required by state or local law differ, any vessel owner permitted to fish in the EEZ must comply with the more restrictive requirement or measure.

### § 697.4 Vessel permits and trap tags.

(a) *Limited access American lobster permit.* Any vessel of the United States that fishes for, possesses, or lands American lobster in or harvested from the EEZ must have been issued and carry on board a valid Federal limited access lobster permit. This requirement does not apply to: charter, head, and commercial dive vessels that possess six or fewer American lobsters per person aboard the vessel if such lobsters are not intended for, nor used, in trade, barter or sale; recreational fishing vessels; and vessels that fish exclusively in state waters for American lobster.

(1) *Eligibility in 1999 and thereafter.* To be eligible for issuance or renewal of a Federal limited access lobster permit for fishing year 1999 and thereafter, a vessel must:

(i) Have been issued a Federal limited access lobster permit for the preceding fishing year by the last day of such fishing year unless a CPH has been

issued as specified in paragraph (a)(5) of this section or unless otherwise authorized by the Regional Administrator;

(ii) Be replacing a vessel that was issued a Federal limited access lobster permit for the preceding year; or

(iii) Be replacing a vessel issued a CPH.

(2) *Qualification restriction.* Unless the Regional Administrator determines otherwise, no more than one vessel may qualify, at any one time, for a Federal limited access lobster permit based on that or another vessel's fishing and permit history. If more than one vessel owner claims eligibility for a limited access permit, based on one vessel's fishing and permit history, the Regional Administrator will determine who is eligible for the permit or a CPH under paragraph (a)(3) of this section.

(3) *Change in ownership.* The fishing and permit history, and management area designation, when required of a vessel, is presumed to transfer with the vessel whenever it is bought, sold or otherwise transferred, unless there is a written agreement, signed by the transferor/seller and transferee/buyer, or other credible written evidence, verifying that the transferor/seller is retaining the vessel's fishing and permit history, and management area designation, for the purposes of replacing the vessel.

(4) *Consolidation restriction.* Federal limited access American lobster permits, and any rights or privileges associated thereto, may not be combined or consolidated.

(5) *Confirmation of permit history.* Notwithstanding any other provisions of this part, a person who does not currently own a fishing vessel, but who has owned a qualifying vessel that has sunk, been destroyed, or transferred to another person, must apply for and receive a CPH if the fishing and permit history of such vessel has been retained lawfully by the applicant. To be eligible to obtain a CPH, the applicant must show that the qualifying vessel meets the eligibility requirements, as applicable, in this part. Issuance of a valid CPH preserves the eligibility of the applicant to apply for a limited access permit for a replacement vessel based on the qualifying vessel's fishing

and permit history at a subsequent time, subject to the replacement provisions specified in this section. If fishing privileges have been assigned or allocated previously under this part, based on the qualifying vessel's fishing and permit history, the CPH also preserves such fishing privileges. A CPH must be applied for in order for the applicant to preserve the fishing rights and limited access eligibility of the qualifying vessel. An application for a CPH must be received by the Regional Administrator no later than 30 days prior to the end of the first full fishing year in which a vessel permit cannot be issued. Failure to do so is considered abandonment of the permit as described in paragraph (o) of this section. A CPH issued under this part will remain valid until the fishing and permit history preserved by the CPH is used to qualify a replacement vessel for a limited access permit. Any decision regarding the issuance of a CPH for a qualifying vessel that has been applied for or been issued previously a limited access permit is a final agency action subject to judicial review under 5 U.S.C. 704. Information requirements for the CPH application are the same as those for a limited access permit. Any request for information about the vessel on the CPH application form means the qualifying vessel that has been sunk, destroyed, or transferred. Vessel permit applicants who have been issued a CPH and who wish to obtain a vessel permit for a replacement vessel based upon the previous vessel history may do so pursuant to paragraph (c) of this section.

(6) *Restriction on permit splitting.* A Federal limited access lobster permit will not be issued to a vessel or its replacement, or remain valid, if the vessels' permit or fishing history has been used to qualify another vessel for another Federal fishery.

(7) *Management area designations for vessels fishing with traps.* (i) For fishing year 2000 and beyond, it is unlawful for vessels issued a limited access American lobster permit fishing with traps, to retain on board, land, or possess American lobster in or from the management areas specified in § 697.18, unless such fishing vessel has been issued a valid management area designation certificate or valid limited access

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American lobster permit specifying such management area(s).

(ii) For fishing year 2000 and beyond, each owner of a vessel which fishes with traps capable of catching American lobster, applying for a limited access American lobster permit must declare to NMFS in his/her application for a permit or permit renewal, in which management areas described in § 697.18 the vessel will fish.

(iii) A lobster management area designation certificate or limited access American lobster permit shall specify in which lobster management area or areas the vessel may fish.

(iv) Once a vessel has been issued a lobster management area designation certificate or limited access American lobster permit specifying the lobster EEZ management areas in which the vessel may fish, no changes to the EEZ management areas specified may be made for such vessel for the remainder of the fishing year unless such vessel becomes a replacement vessel for another qualified vessel.

(v) A vessel issued a lobster management area designation certificate or limited access American lobster permit specifying more than one EEZ management area must abide by the most restrictive management measures in effect for any one of the specified areas, regardless of the area being fished, for the entire fishing year.

(b) *Condition.* Vessel owners who apply for a Federal limited access American lobster permit under this section must agree, as a condition of the permit, that the vessel and vessel's fishing, catch, and pertinent gear (without regard to whether such fishing occurs in the EEZ or landward of the EEZ, and without regard to where such fish or gear are possessed, taken, or landed), are subject to all requirements of this part. The vessel and all such fishing, catch, and gear shall remain subject to all applicable state or local requirements. If a requirement of this part and a management measure required by state or local law differ, any vessel owner permitted to fish in the EEZ must comply with the more restrictive requirement.

(c) *Vessel permit application.* Applicants for a Federal limited access American lobster permit under this

section must submit a completed application on an appropriate form obtained from the Regional Administrator. To be complete, an application for a Federal limited access American lobster permit must contain at least the following information, and any other information specified on the application form or otherwise required by the Regional Administrator: Vessel name; owner name, mailing address, and telephone number; U.S. Coast Guard documentation number and a copy of the vessel's U.S. Coast Guard documentation or, if undocumented, state registration number and a copy of the state registration; lobster management area designation the vessel will fish in, as specified in § 697.18, if fishing with traps capable of catching American lobster; home port and principal port of landing; overall length; gross tonnage; net tonnage; engine horsepower; year the vessel was built; type of construction; type of propulsion; approximate fish-hold capacity; type of fishing gear used by the vessel; number of crew; permit category; if the owner is a corporation, a copy of the Certificate of Incorporation; and the names and addresses of all shareholders owning 25 percent or more of the corporation's shares; if the owner is a partnership, a copy of the Partnership Agreement and the names and addresses of all partners; if there is more than one owner, names of all owners having more than a 25 percent interest; and name and signature of the owner or the owner's authorized representative. The application must be signed by the owner of the vessel, or the owner's authorized representative, and be submitted to the Regional Administrator at least 30 days prior to the date on which the permit is needed by the applicant. The Regional Administrator shall notify the applicant of any deficiency in the application.

(d) *Trap tag application, lost and replacement tags.* (1) Beginning fishing year 2000, any lobster trap fished in Federal waters must have a valid Federal lobster trap tag permanently attached to the trap bridge or central cross-member, unless exempt under § 697.26.

(2) Trap tags shall be issued by the Regional Administrator, or, by state

agencies, by agreement with the Regional Administrator, provided that such state tagging programs accurately identify the Federal limited access American lobster permit holder. NMFS will provide notice to American lobster permit holders as to the procedure for applying for trap tags and any required fees.

(3) Vessel owners or operators are required to report to the Regional Administrator lost, destroyed, and missing tags as soon as feasible within 7 days after the tags have been discovered lost, destroyed, or missing, by letter or fax to the Regional Administrator.

(4) Requests for replacement of lost tags in excess of the tag limit specified in § 697.19(c) must be submitted in writing to the Regional Administrator on an appropriate form obtained from the Regional Administrator and signed by the permit holder or authorized representative. The form and request for replacement tags will be reviewed by the Regional Administrator on a case-by-case basis and a decision will be reached on the number of replacement tags to be issued, if any. A check for the cost of the replacement tags must be received before tags will be re-issued.

(e) *Fees.* The Regional Administrator may charge a fee to recover the administrative expenses of issuing a permit or trap tags required under this section. Fee amounts shall be calculated in accordance with the procedures of the NOAA Finance Handbook, available from the Regional Administrator, for determining administrative costs of each special product or service. Fees may not exceed such costs and shall be specified with each application form. The applicable fee must accompany each application; if it does not, the application will be considered incomplete for purposes of paragraph (f) of this section. Any fee paid by an insufficiently funded commercial instrument shall render any permit issued on the basis thereof null and void.

(f) *Issuance.* (1) Except as provided in subpart D of 15 CFR part 904, the Regional Administrator shall issue a permit or tags, as applicable, within 30 days of receipt of the application unless:

(i) The applicant has failed to submit a completed application. An application is complete when all requested forms, information, documentation, and fees, if applicable, have been received;

(ii) The application was not received by the Regional Administrator by any applicable deadline set forth in this section;

(iii) The applicant and applicant's vessel failed to meet all applicable eligibility requirements set forth in this section or the number of tags requested exceeds the applicable tag limit specified in § 697.19(c);

(iv) The applicant has failed to meet any other application or tag requirements stated in this part.

(2) *Incomplete applications.* Upon receipt of an incomplete or improperly executed application for any permit under this part, the Regional Administrator shall notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(g) *Expiration.* A permit expires annually upon the renewal date specified in the permit.

(h) *Duration.* A permit will continue in effect until the renewal date unless it is revoked, suspended, or modified under 15 CFR part 904, or otherwise expires, or ownership changes, or the applicant has failed to report any change in the information on the permit application to the Regional Administrator as specified in paragraph (k) of this section.

(i) *Reissuance.* A vessel permit may be reissued by the Regional Administrator when requested in writing by the owner or authorized representative, stating the need for reissuance, the name of the vessel, and the number of the permit requested to be reissued. An application for a reissued permit is not considered a new application. The fee for a reissued permit shall be the same as for an initial permit.

(j) *Transfer.* A permit issued under this part is not transferable or assignable. A permit will be valid only for the fishing vessel, owner and/or person for which it is issued.

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(k) *Change in application information.* Within 15 days after a change in the information contained in an application submitted under this section, a written notice of the change must be submitted to the Regional Administrator. If the written notice of the change in information is not received by the Regional Administrator within 15 days, the permit is void.

(l) *Alteration.* Any permit that has been altered, erased, or mutilated is invalid.

(m) *Display.* A vessel permit must be carried, at all times, on board the vessel for which it is issued and shall be subject to inspection upon request by any authorized officer. Any permit issued under this part must be maintained in legible condition.

(n) *Sanctions.* Permits issued or sought under this section may be suspended, revoked, or modified, by procedures governing enforcement-related permit sanctions and denials, found at subpart D of 15 CFR part 904.

(o) *Abandonment or voluntary relinquishment of limited access American lobster permits.* Failure to renew a limited access permit in any fishing year bars the renewal of the permit in subsequent years. If a vessel's Federal limited access American lobster permit or CPH is voluntarily relinquished to the Regional Administrator, or abandoned through failure to renew or otherwise, no Federal limited access American lobster permit or CPH may be reissued or renewed based on the qualifying vessel's history.

(p) *Permit category change.* A vessel permit category change (for individuals who possess a dual Federal limited access permit for American lobster and black sea bass and who restrict fishing operations to Area 5) may be issued by the Regional Administrator when requested in writing by the owner or by an authorized representative of a vessel meeting the eligibility requirements under § 697.26(a).

[64 FR 68248, Dec. 6, 1999, as amended at 66 FR 14501, Mar. 13, 2001]

### § 697.5 Operator permits.

(a) *General.* Any operator of a vessel issued a Federal limited access American lobster permit under § 697.4(a), or any operator of a vessel of the United

States that fishes for, possesses, or lands American lobsters, harvested in or from the EEZ must have been issued and carry on board a valid operator's permit issued under this section. This requirement does not apply to: Charter, head, and commercial dive vessels that possess six or fewer American lobsters per person aboard the vessel if said lobsters are not intended for nor used in trade, barter or sale; recreational fishing vessels; and vessels that fish exclusively in state waters for American lobster.

(b) *Operator application.* Applicants for a permit under this section must submit a completed permit application on an appropriate form obtained from the Regional Administrator. To be complete, an application must contain at least the following information, and any other information specified on the application form or otherwise required by the Regional Administrator: Name, mailing address, and telephone number; date of birth; hair color; eye color; height; weight; social security number (optional) and signature of the applicant. The applicant must also provide two recent (no more than 1 year old) color passport-size photographs. The application must be signed by the applicant and submitted to the Regional Administrator at least 30 days prior to the date on which the applicant desires to have the permit made effective. The Regional Administrator will notify the applicant of any deficiency in the application.

(c) *Condition.* Vessel operators who apply for an operator's permit under this section must agree, as a condition of this permit, that the operator and vessels fishing, catch, crew size, and pertinent gear (without regard to whether such fishing occurs in the EEZ or landward of the EEZ, and without regard to where such fish or gear are possessed, taken, or landed), are subject to all requirements of this part while fishing in the EEZ or on board a vessel permitted under § 697.4. The vessel and all such fishing, catch, and gear will remain subject to all applicable state or local requirements. Further, such operators must agree, as a condition of this permit, that if the permit is suspended or revoked pursuant to 15 CFR part 904, the operator cannot be



on board any fishing vessel issued a Federal fisheries permit or any vessel subject to Federal fishing regulations while the vessel is at sea or engaged in off loading. If a requirement of this part and a management measure required by state or local law differ, any operator issued a permit under this part must comply with the more restrictive requirement or measure.

(d) *Fees.* The Regional Administrator may charge a fee to recover the administrative expenses of issuing a permit required under this section. The amount of the fee shall be calculated in accordance with the procedures of the NOAA Finance Handbook, available from the Regional Administrator, for determining administrative costs of each special product or service. The fee may not exceed such costs and shall be specified with each application form. The applicable fee must accompany each application; if it does not, the application will be considered incomplete for purposes of paragraph (e) of this section. Any fee paid by an insufficiently funded commercial instrument shall render any permit issued on the basis thereof null and void.

(e) *Issuance.* Except as provided in subpart D of 15 CFR part 904, the Regional Administrator shall issue an operator's permit within 30 days of receipt of the application if the criteria specified herein are met. Upon receipt of an incomplete or improperly executed application, the Regional Administrator will notify the applicant of the deficiency in the application. If the application fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(f) *Expiration.* A permit expires upon the renewal date specified in the permit.

(g) *Duration.* An operator permit is valid until it is revoked, suspended, or modified under subpart D of 15 CFR part 904, or otherwise expires, or the applicant has failed to report a change in the information on the permit application to the Regional Administrator as specified in paragraph (j) of this section.

(h) *Reissuance.* An operator permit may be reissued by the Regional Administrator when requested in writing

by the applicant, stating the need for reissuance and the number of the permit requested to be reissued. An applicant for a reissued operator permit must also provide two recent (no more than 1 year old) color passport-size photos of the applicant. An application for a reissued permit is not considered a new application. An appropriate fee may be charged.

(i) *Transfer.* Permits issued under this section are not transferable or assignable. A permit is valid only for the person to whom it is issued.

(j) *Change in application information.* Notice of a change in the permit holder's name, address, or telephone number must be submitted in writing to, and received by, the Regional Administrator within 15 days of the change in information. If written notice of the change in information is not received by the Regional Administrator within 15 days, the permit is void.

(k) *Alteration.* Any permit that has been altered, erased, or mutilated is invalid.

(l) *Display.* Any permit issued under this part must be maintained in legible condition and displayed for inspection upon request by any authorized officer.

(m) *Sanctions.* Vessel operators with suspended or revoked permits may not be on board a federally permitted fishing vessel in any capacity while the vessel is at sea or engaged in off-loading. Permits issued or sought under this section may be suspended, revoked, or modified, by procedures governing enforcement-related permit sanctions and denials, found at subpart D of 15 CFR part 904.

(n) *Vessel owner responsibility.* Vessel owners are responsible for ensuring that their vessels are operated by an individual with a valid operator's permit issued under this section.

#### § 697.6 Dealer permits.

(a) Any person who receives, for a commercial purpose (other than solely for transport on land), American lobster from the owner or operator of a vessel issued a valid permit under this part, or any person who receives, for a commercial purpose (other than solely for transport on land), American lobster, managed by this part, must have

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been issued, and have in his/her possession, a valid permit issued under this section.

(b) *Dealer application.* Applicants for a dealer permit under this section must submit a completed permit application on an appropriate form obtained from the Regional Administrator. To be complete, an application must contain at least the following information, and any other information specified on the application form or otherwise required by the Regional Administrator: Company name, place(s) of business, mailing address(es) and telephone number(s); owner's name; dealer permit number (if a renewal); and name and signature of the person responsible for the truth and accuracy of the report. If the dealer is a corporation, a copy of the Certificate of Incorporation; and the names and addresses of all shareholders owning 25 percent or more of the corporation's shares, must be included with the application. If the dealer is a partnership, a copy of the Partnership Agreement and the names and addresses of all partners; if there is more than one partner, names of all partners having more than a 25 percent interest; and name and signature of all partner or partners authorized must be included with the application. The application must be signed by the applicant and submitted to the Regional Administrator at least 30 days prior to the date on which the applicant needs the permit. The Regional Administrator will notify the applicant of any deficiency in the application.

(c) *Fees.* The Regional Administrator may charge a fee to recover the administrative expenses of issuing a permit required under this section. The amount of the fee shall be calculated in accordance with the procedures of the NOAA Finance Handbook, available from the Regional Administrator, for determining administrative costs of each special product or service. The fee may not exceed such costs and shall be specified with each application form. The applicable fee must accompany each application; if it does not, the application will be considered incomplete for purposes of paragraph (e) of this section. Any fee paid by an insufficiently funded commercial instrument

shall render any permit issued on the basis thereof null and void.

(d) *Issuance.* Except as provided in subpart D of 15 CFR part 904, the Regional Administrator will issue a permit at any time during the fishing year to an applicant, unless the applicant has failed to submit a completed application. An application is complete when all requested forms, information, and documentation have been received. Upon receipt of an incomplete or improperly executed application, the Regional Administrator will notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(e) *Expiration.* A permit expires upon the renewal date specified in the permit.

(f) *Duration.* A permit is valid until it is revoked, suspended, or modified under 15 CFR part 904, or otherwise expires, or ownership changes, or the applicant has failed to report any change in the information on the permit application to the Regional Administrator as required by paragraph (i) of this section.

(g) *Reissuance.* A dealer permit may be reissued by the Regional Administrator when requested in writing by the applicant, stating the need for reissuance and the number of the permit requested to be reissued. An application for a reissued permit is not considered a new application. An appropriate fee may be charged.

(h) *Transfer.* Permits issued under this section are not transferable or assignable. A permit is valid only for the person, or other business entity, to which it is issued.

(i) *Change in application information.* Notice of a change in the dealer's name, address, or telephone number must be submitted in writing to, and received by, the Regional Administrator within 15 days of the change in information. If written notice of the change in information is not received by the Regional Administrator within 15 days, the permit is void.

(j) *Alteration.* Any permit that has been altered, erased, or mutilated is invalid.

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(k) *Display*. Any permit issued under this part must be maintained in legible condition and displayed for inspection upon request by any authorized officer.

(l) *Federal versus state requirements*. If a requirement of this part differs from a fisheries management measure required by state law, any dealer issued a Federal dealer permit under this part must comply with the more restrictive requirement.

(m) *Sanctions*. Permits issued or sought under this section may be suspended, revoked, or modified, by procedures governing enforcement-related permit sanctions and denials, found at subpart D of 15 CFR part 904.

### § 697.7 Prohibitions.

(a) *Atlantic Coast weakfish fishery*. In addition to the prohibitions set forth in § 600.725 of this chapter, it is unlawful for any person to do any of the following:

(1) Fish for, harvest, or possess any weakfish less than 12 inches (30.5 cm) in total length (measured as a straight line along the bottom of the fish from the tip of the lower jaw with the mouth closed to the end of the lower tip of the tail) from the EEZ.

(2) Retain any weakfish less than 12 inches (30.5 cm) in total length taken in or from the EEZ.

(3) Fish for weakfish in the EEZ with a minimum mesh size less than 3¼-inch (8.3 cm) square stretch mesh (as measured between the centers of opposite knots when stretched taut) or 3¾-inch (9.5 cm) diamond stretch mesh for trawls and 2⅞-inch (7.3 cm) stretch mesh for gillnets.

(4) Possess more than 150 lb (67 kg) of weakfish during any one day or trip, whichever is longer, in the EEZ when using a mesh size less than 3¼-inch (8.3 cm) square stretch mesh (as measured between the centers of opposite knots when stretched taut) or 3¾-inch (9.5 cm) diamond stretch mesh for finfish trawls and 2⅞-inch (7.3 cm) stretch mesh for gillnets.

(5) Fish using a flynet in the EEZ off North Carolina in the area bounded as follows:

(i) On the north by a straight line connecting points 35°10.8' N. lat., 75°29.2' W. long. (3 nm off Cape Hat-

teras) and 35°03.5' N. lat., 75°11.8' W. long. (20 nm off Cape Hatteras).

(ii) The east by a straight line connecting points 35°03.5' N. lat., 75°11.8' W. long. (20 nm off Cape Hatteras) and 33°21.1' N. lat., 77°57.5' W. long., (about 30 nm off Cape Fear on the extension of the North Carolina/South Carolina state line into the EEZ).

(iii) On the south by a straight line connecting points 33°21.1' N. lat., 77°57.5' W. long., and 33°48.8' N. lat., 78°29.7' W. long. (3 nm off Little River Inlet on the North Carolina/South Carolina state line).

(iv) On the west by state waters.

(6) Possess any weakfish in the closed area of the EEZ, as described in paragraph (a)(5) of this section, when fishing with shrimp trawls or crab trawls.

(7) Land weakfish for commercial purposes caught in the EEZ in any state other than Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, or North Carolina.

(b) *Atlantic striped bass fishery*. In addition to the prohibitions set forth in § 600.725 of this chapter, it is unlawful for any person to do any of the following:

(1) Fish for Atlantic striped bass in the EEZ.

(2) Harvest any Atlantic striped bass from the EEZ.

(3) Possess any Atlantic striped bass in or from the EEZ, except in the following area: The EEZ within Block Island Sound, north of a line connecting Montauk Light, Montauk Point, NY, and Block Island Southeast Light, Block Island, RI; and west of a line connecting Point Judith Light, Point Judith, RI, and Block Island Southeast Light, Block Island, RI. Within this area, possession of Atlantic striped bass is permitted, provided no fishing takes place from the vessel while in the EEZ and the vessel is in continuous transit.

(4) Retain any Atlantic striped bass taken in or from the EEZ.

(c) *American lobster*. (1) In addition to the prohibitions specified in § 600.725 of this chapter, it is unlawful for any person owning or operating a vessel issued a Federal limited access American lobster permit under § 697.4 or a vessel or person holding a valid State of Maine

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American lobster permit or license and fishing under the provisions of and under the areas designated in § 697.24 to do any of the following:

(i) Retain on board, land, or possess at or after landing, whole American lobsters that fail to meet the minimum carapace length standard specified in § 697.20(b). All American lobsters will be subject to inspection and enforcement action, up to and including the time when a dealer receives or possesses American lobsters for a commercial purpose.

(ii) Retain on board, land, or possess, up to the time when a dealer first receives or possesses American lobster for a commercial purpose, any American lobster or parts thereof in violation of the mutilation standards specified in § 697.20(c).

(iii) Retain on board, land, or possess any berried female American lobster specified in § 697.20(d).

(iv) Remove eggs from any berried female American lobster, land, or possess any such lobster from which eggs have been removed. No person owning or operating a vessel issued a Federal limited access American lobster permit under § 697.4 or a vessel or person holding a State of Maine American lobster permit or license and fishing under the provisions of and under the areas designated in § 697.24 may land or possess any lobster that has come in contact with any substance capable of removing lobster eggs.

(v) Retain on board, land, or possess any V-notched female American lobster.

(vi) Spear any American lobster, or land or possess any American lobster which has been speared.

(vii) Possess, deploy, fish with, haul, harvest lobster from, or carry aboard a vessel trap gear in excess of the trap limits specified in § 697.19 unless exempted pursuant to § 697.26

(viii) Possess, deploy, haul, harvest lobster from, or carry aboard a vessel any trap gear that does not satisfy the requirements on gear identification and marking, escape vents, ghost panel and maximum trap size specified in § 697.21, unless such gear has been rendered unfishable, or unless exempted pursuant to § 697.26.

(ix) Possess, deploy, haul, harvest lobster from, or carry aboard a vessel any trap gear not tagged in accordance with the requirements in § 697.19, unless such gear has been rendered unfishable, or unless exempted pursuant to § 697.26.

(x) Fail to produce, or cause to be produced, lobster trap tags when requested by an authorized officer, unless exempted pursuant to § 697.26.

(xi) Beginning May 1, 2000, reproduce, or cause to be reproduced, lobster trap tags without the written consent of the Regional Administrator.

(xii) Beginning May 1, 2000, possess a lobster trap tag, tag a lobster trap with, or use, a lobster trap tag that has been reported lost, missing, destroyed, or issued to another vessel.

(xiii) Beginning May 1, 2000, sell, transfer, or give away lobster trap tags that have been reported lost, missing, destroyed, or issued to another vessel.

(xiv) Fail to affix and maintain permanent markings, as required by § 697.8.

(xv) Fish for, retain on board, land, or possess American lobsters, unless the operator of the vessel has been issued an operator's permit under § 697.5, and the permit is on board the vessel and is valid.

(xvi) Fail to report to the Regional Administrator within 15 days any change in the information contained in the permit application as required under § 697.4(k) or § 697.5(j).

(xvii) Make any false statement in connection with an application under § 697.4, § 697.5, or § 697.6.

(xviii) Sell, transfer, or barter or attempt to sell, transfer, or barter to a dealer any American lobsters, unless the dealer has a valid Federal Dealer's Permit issued under § 697.6.

(xix) Refuse or fail to carry a sea sampler/observer if requested to do so by the Regional Administrator.

(xx) Fail to provide a sea sampler/observer with required food, accommodations, access, and assistance, as specified in § 697.12.

(xxi) Violate any terms of a letter authorizing exempted fishing pursuant to § 697.22 or to fail to keep such letter aboard the vessel during the time period of the exempted fishing.

(xxii) Possess, deploy, fish with, haul, harvest lobster from, or carry aboard a

vessel any trap gear on a fishing trip in the EEZ from a vessel that fishes for, takes, catches, or harvests lobster by a method other than traps.

(xxiii) Fish for, take, catch, or harvest lobster on a fishing trip in or from the EEZ by a method other than traps, in excess of 100 lobsters (or parts thereof), for each lobster day-at-sea or part of a lobster day-at-sea, up to a maximum of 500 lobsters (or parts thereof) for any one trip unless otherwise restricted by § 648.80(a)(3)(i), (a)(4)(i)(A), (a)(8)(i), (a)(9)(i)(D), (a)(12)(i)(A), (a)(13)(i)(A), (b)(3)(ii) or § 697.7(c)(2)(i)(C) of this chapter.

(xxiv) Possess, retain on board, or land lobster by a vessel with any non-trap gear on board capable of catching lobsters, in excess of 100 lobsters (or parts thereof), for each lobster day-at-sea or part of a lobster day-at-sea, up to a maximum of 500 lobsters (or parts thereof) for any one trip unless otherwise restricted by § 648.80(a)(3)(i), (a)(4)(i)(A), (a)(8)(i), (a)(9)(i)(D), (a)(12)(i)(A), (a)(13)(i)(A), (b)(3)(ii) or § 697.7(c)(2)(i)(C) of this chapter.

(xxv) Transfer or attempt to transfer American lobster from one vessel to another vessel.

(xxvi) Beginning May 1, 2000, possess, deploy, fish with, haul, harvest lobster from, or carry aboard a vessel any trap gear in or from the management areas specified in § 697.18, unless such fishing vessel has been issued a valid management area designation certificate or valid limited access American lobster permit specifying such management area(s) as required under § 697.4(a)(7).

(2) In addition to the prohibitions specified in § 600.725 of this chapter and the prohibitions specified in paragraph (c)(1) of this section, it is unlawful for any person to do any of the following:

(i) Retain on board, land, or possess American lobsters unless:

(A) The American lobsters were harvested by a vessel that has been issued and carries on board a valid Federal limited access American lobster permit under § 697.4; or

(B) The American lobsters were harvested by a vessel without a valid Federal limited access American lobster permit and that fishes for American lobsters exclusively in state waters; or

(C) The American lobsters were harvested by a charter boat, head boat, or commercial dive vessel that possesses six or fewer American lobsters per person on board the vessel and the lobsters are not intended to be, or are not, traded, bartered, or sold; or

(D) The American lobsters were harvested by a recreational fishing vessel; or

(E) The American lobsters were harvested by a vessel or person holding a valid State of Maine American lobster permit or license and is fishing under the provisions of and in the areas designated in § 697.24.

(ii) Sell, barter, or trade, or otherwise transfer, or attempt to sell, barter, or trade, or otherwise transfer, for a commercial purpose, any American lobsters from a vessel, unless the vessel has been issued a valid Federal limited access American lobster permit under § 697.4, or the American lobsters were harvested by a vessel without a valid Federal limited access American lobster permit that fishes for American lobsters exclusively in state waters or unless the vessel or person holds a valid State of Maine American lobster permit or license and that is fishing under the provisions of and in the areas designated in § 697.24.

(iii) To be, or act as, an operator of a vessel fishing for or possessing American lobsters in or from the EEZ, or issued a Federal limited access American lobster permit under § 697.4, without having been issued and possessing a valid operator's permit under § 697.5.

(iv) Purchase, possess, or receive for a commercial purpose, or attempt to purchase, possess, or receive for a commercial purpose, as, or in the capacity of, a dealer, American lobsters taken from or harvested by a fishing vessel issued a Federal limited access American lobster permit, unless in possession of a valid dealer's permit issued under § 697.6.

(v) Purchase, possess, or receive for commercial purposes, or attempt to purchase or receive for commercial purposes, as, or in the capacity of, a dealer, American lobsters caught by a vessel other than one issued a valid Federal limited access American lobster permit under § 697.4, or one holding or owned or operated by one holding a

valid State of Maine American lobster permit or license and fishing under the provisions of and in the areas designated in § 697.24, unless the American lobsters were harvested by a vessel without a Federal limited access American lobster permit and that fishes for American lobsters exclusively in state waters.

(vi) Assault, resist, oppose, impede, harass, intimidate, or interfere with or bar by command, impediment, threat, or coercion any NMFS-approved sea sampler/observer aboard a vessel conducting his or her duties aboard a vessel, or any authorized officer conducting any search, inspection, investigation, or seizure in connection with enforcement of this part, or any official designee of the Regional Administrator conducting his or her duties.

(vii) Refuse to carry a sea sampler/observer if requested to do so by the Regional Administrator.

(viii) Refuse reasonable assistance to either a NMFS-approved sea sampler/observer conducting his or her duties aboard a vessel.

(ix) Make any false statement, oral or written, to an authorized officer, concerning the taking, catching, harvesting, landing, purchase, sale, or transfer of any American lobster.

(x) Violate any provision of this part, the ACFCMA, the Magnuson-Stevens Act, or any regulation, permit, or notification issued under the ACFCMA, the Magnuson-Stevens Act, or these regulations.

(xi) Retain on board, land, or possess any American lobsters harvested in or from the EEZ in violation of § 697.20.

(xii) Ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any whole live American lobster in violation of § 697.20.

(xiii) Fish, or be in the areas described in § 697.23(b)(2), (c)(2), (d)(2), and (e)(2) on a fishing vessel with mobile gear during the time periods specified in § 697.23(b)(1), (c)(1), (d)(1), and (e)(1), except as provided in § 697.23(b)(1), (c)(1), (d)(1), and (e)(1).

(xiv) Fish, or be in the areas described in § 697.23(b)(2), (c)(2), and (d)(2) on a fishing vessel with lobster trap gear on board during the time periods specified in § 697.23(b)(1), (c)(1), and (d)(1).

(xv) Deploy or fail to remove lobster trap gear in the areas described in § 697.23(b)(2), (c)(2), and (d)(2) during the time periods specified in § 697.23(b)(1), (c)(1), and (d)(1).

(xvi) Violate any terms of a letter authorizing exempted fishing pursuant to § 697.22 or to fail to keep such letter aboard the vessel during the time period of the exempted fishing.

(xvii) Possess, deploy, fish with, haul, harvest lobster from, or carry aboard a vessel any trap gear on a fishing trip in the EEZ on a vessel that fishes for, takes, catches, or harvests lobster by a method other than traps.

(xviii) Fish for, take, catch, or harvest lobster on a fishing trip in the EEZ by a method other than traps, in excess of 100 lobsters (or parts thereof), for each lobster day-at-sea or part of a lobster day-at-sea, up to a maximum of 500 lobsters (or parts thereof) for any one trip unless otherwise restricted by § 648.80(a)(3)(i), (a)(4)(i)(A), (a)(8)(i), (a)(9)(i)(D), (a)(12)(i)(A), (a)(13)(i)(A), (b)(3)(ii) or § 697.7(c)(2)(i)(C) of this chapter.

(xix) Possess, retain on board, or land lobster by a vessel with any non-trap gear on board capable of catching lobsters, in excess of 100 lobsters (or parts thereof), for each lobster day-at-sea or part of a lobster day-at-sea, up to a maximum of 500 lobsters (or parts thereof) for any one trip unless otherwise restricted by § 648.80(a)(3)(i), (a)(4)(i)(A), (a)(8)(i), (a)(9)(i)(D), (a)(12)(i)(A), (a)(13)(i)(A), (b)(3)(ii) or § 697.7(c)(2)(i)(C) of this chapter.

(xx) Transfer or attempt to transfer American lobster from one vessel to another vessel.

(3) *Presumptions.* (i) Any person possessing, or landing American lobsters or parts thereof at or prior to the time when those American lobsters are landed, or are received or possessed by a dealer for the first time, is subject to all of the prohibitions specified in paragraph (c) of this section, unless the American lobsters were harvested by a vessel without a Federal limited access American lobster permit and that fishes for American lobsters exclusively in state waters; or are from a charter, head, or commercial dive vessel that possesses or possessed six or fewer American lobsters per person

aboard the vessel and the lobsters are not intended for sale, trade, or barter; or are from a recreational fishing vessel.

(ii) American lobsters or parts thereof that are possessed, or landed at or prior to the time when the American lobsters are received by a dealer, or whole American lobsters that are possessed by a dealer, are presumed to have been harvested from the EEZ or by a vessel with a Federal limited access American lobster permit. A preponderance of all submitted evidence that such American lobsters were harvested by a vessel without a Federal limited access American lobster permit and fishing exclusively for American lobsters in state or foreign waters will be sufficient to rebut this presumption.

(iii) The possession of egg-bearing female American lobsters, V-notched female American lobsters, American lobsters that are smaller than the minimum size set forth in § 697.20(b), or lobster parts, possessed at or prior to the time when the aforementioned lobsters or parts are received by a dealer, will be *prima facie* evidence that such American lobsters or parts were taken or imported in violation of these regulations. A preponderance of all submitted evidence that such American lobsters were harvested by a vessel not holding a permit under this part and fishing exclusively within state or foreign waters will be sufficient to rebut the presumption.

(d) *Atlantic sturgeon fishery.* In addition to the prohibitions set forth in § 600.725, it is unlawful for any person to do any of the following:

(1) Fish for Atlantic sturgeon in the EEZ.

(2) Harvest any Atlantic sturgeon from the EEZ.

(3) Possess any natural or stocked Atlantic sturgeon in or from the EEZ.

(4) Retain any Atlantic sturgeon taken in or from the EEZ.

(5) Possess any natural Atlantic sturgeon parts, including Atlantic sturgeon eggs, in the EEZ.

(e) *Atlantic Coast Horseshoe Crab fishery.* In addition to the prohibitions set forth in § 600.725 of this chapter, it is unlawful for any person to do any of the following:

(1) Fish for horseshoe crabs in the Carl N. Shuster Jr. Horseshoe Crab Reserve described in § 697.23(f)(1).

(2) Possess horseshoe crabs on a vessel with a trawl or dredge in the closed area described in § 697.23(f)(1).

(3) Fail to return to the water immediately without further harm, all horseshoe crabs caught in the closed area described in § 697.23(f)(1).

[64 FR 68248, Dec. 6, 1999, as amended at 66 FR 8911, Feb. 5, 2001; 66 FR 14502, Mar. 13, 2001]

#### § 697.8 Vessel identification.

(a) *Vessel name and official number.* Each fishing vessel issued a limited access American lobster permit and over 25 ft (7.6 m) in registered length must:

(1) Have affixed permanently its name on the port and starboard sides of the bow and, if possible, on its stern.

(2) Have its official number displayed on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so as to be clearly visible from enforcement vessels and aircraft. The official number is the USCG documentation number or the vessel's state registration number for vessels not required to be documented under title 46 U.S.C.

(b) *Numerals.* Except as provided in paragraph (d) of this section, each fishing vessel issued a limited access American lobster permit must display its official number in block arabic numerals in contrasting color at least 18 inches (45.7 cm) in height for fishing vessels over 65 ft (19.8 m) in registered length, and at least 10 inches (25.4 cm) in height for all other vessels over 25 ft (7.6 m) in registered length. The registered length of a vessel, for purposes of this section, is that registered length set forth in USCG or state records.

(c) *Duties of owner.* The owner of each vessel issued a limited access American lobster permit shall ensure that—

(1) The vessel's name and official number are kept clearly legible and in good repair.

(2) No part of the vessel, its rigging, its fishing gear, or any other object obstructs the view of the official number from any enforcement vessel or aircraft.

(d) *Non-permanent marking.* Vessels over 25 ft (7.6 m) in registered length, fishing in the EEZ and carrying recreational fishing parties on a per capita basis or by charter must use markings that meet the above requirements, except for the requirement that they be affixed permanently to the vessel. The non-permanent markings must be displayed in conformity with the aforementioned requirements.

**§ 697.9 Facilitation of enforcement.**

(a) *General.* See § 600.504 of this chapter.

(b) *Radio hails.* Permit holders, while underway, must be alert for communication conveying enforcement instructions and immediately answer via VHF–FM radio, channel 16, when hailed by an enforcement officer. Vessels not required to have VHF–FM radios by the Coast Guard are exempt from this requirement.

**§ 697.10 Penalties.**

See § 600.735 of this chapter.

**§ 697.11 Civil procedures.**

The civil procedure regulations at 15 CFR part 904 apply to civil penalties, permit sanctions, seizures, and forfeitures under the Atlantic Striped Bass Conservation Act and the ACFCMA, and to the regulations of this part.

**§ 697.12 At-sea sea sampler/observer coverage.**

(a) The Regional Administrator may request any vessel issued a Federal limited access American lobster permit to carry a NMFS-approved sea sampler/observer. If requested by the Regional Administrator to carry a sea sampler/observer, a vessel may not engage in any fishing operations in the respective fishery unless a sea sampler/observer is on board, or unless the requirement is waived, as specified in paragraph (c) of this section.

(b) If requested in writing by the Regional Administrator to carry an sea sampler/observer, it is the responsibility of the vessel owner to arrange for and facilitate sea sampler/observer placement. Owners of vessels selected for sea sampler/observer coverage must notify the appropriate Regional or

Science and Research Administrator, as specified by the Regional Administrator, before commencing any fishing trip that may result in the harvest of resources of the respective fishery. Notification procedures will be specified in election letters to vessel owners.

(c) The Regional Administrator may waive in writing the requirement to carry a sea sampler/observer if the facilities on a vessel for housing the sea sampler/observer, or for carrying out sea sampler/observer functions, are so inadequate or unsafe that the health or safety of the sea sampler/observer, or the safe operation of the vessel, would be jeopardized.

(d) An owner or operator of a vessel on which a NMFS-approved sea sampler/observer is embarked must:

(1) Provide accommodations and food that are equivalent to those provided to the crew.

(2) Allow the sea sampler/observer access to and use of the vessel's communications equipment and personnel upon request for the transmission and receipt of messages related to the sea sampler's/observer's duties.

(3) Provide true vessel locations, by latitude and longitude or loran coordinates, as requested by the sea sampler/observer, and allow the sea sampler/observer access to and use of the vessel's navigation equipment and personnel upon request to determine the vessel's position.

(4) Notify the sea sampler/observer in a timely fashion of when fishing operations are to begin and end.

(5) Allow for the embarking and debarking of the sea sampler/observer, as specified by the Regional Administrator, ensuring that transfers of sea samplers/observers at sea are accomplished in a safe manner, via small boat or raft, during daylight hours as weather and sea conditions allow, and with the agreement of the sea samplers/observers involved.

(6) Allow the sea sampler/observer free and unobstructed access to the vessel's bridge, working decks, holding bins, weight scales, holds, and any other space used to hold, process, weigh, or store fish.



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(7) Allow the sea sampler/observer to inspect and copy the vessel's log, communications log, and records associated with the catch and distribution of fish for that trip.

(e) The owner or operator of a vessel issued a Federal limited access American lobster permit, if requested by the sea sampler/observer also must:

(1) Notify the sea sampler/observer of any sea turtles, marine mammals, or other specimens taken by the vessel.

(2) Provide the sea sampler/observer with sea turtles, marine mammals, or other specimens taken by the vessel.

(f) NMFS may accept sea sampler/observer coverage funded by outside sources if:

(1) All coverage conducted by such sea samplers/observers is determined by NMFS to be in compliance with NMFS' sea sampler/observer guidelines and procedures.

(2) The owner or operator of the vessel complies with all other provisions of this part.

(3) The sea sampler/observer is approved by the Regional Administrator.

### Subpart B—Management Measures

#### § 697.17 Non-trap harvest restrictions.

(a) *Non-trap landing limits.* In addition to the prohibitions set forth in § 600.725 of this chapter, it is unlawful for a vessel with any non-trap gear on board capable of catching lobsters, or, that fishes for, takes, catches, or harvests lobster on a fishing trip in or from the EEZ by a method other than traps, to possess, retain on board, or land, in excess of 100 lobsters (or parts thereof), for each lobster day-at-sea or part of a lobster day-at-sea, up to a maximum of 500 lobsters (or parts thereof) for any one trip, unless otherwise restricted by § 648.80(a)(3)(i), (a)(4)(i)(A), (a)(8)(i), (a)(9)(i)(D), (a)(12)(i)(A), (a)(13)(i)(A), (b)(3)(ii) or § 697.7(c)(2)(i)(C) of this chapter.

(b) All persons that fish for, take, catch, or harvest lobsters on a fishing trip in or from the EEZ are prohibited from transferring or attempting to transfer American lobster from one vessel to another vessel.

(c) Any vessel on a fishing trip in the EEZ that fishes for, takes, catches, or

harvests lobster by a method other than traps may not possess on board, deploy, fish with, or haul back traps.

#### § 697.18 Lobster management areas.

The following lobster management areas are established for purposes of implementing the management measures specified in this part. (A copy of a chart showing the American lobster EEZ management areas is available upon request to the Office of the Regional Administrator, NMFS, 1 Blackburn Drive, Gloucester, MA 01930.)

(a) *EEZ Nearshore Management Area 1.* EEZ Nearshore Management Area 1 is defined by the area, including state and Federal waters that are near-shore in the Gulf of Maine, bounded by straight lines connecting the following points, in the order stated, and the coastline of Maine, New Hampshire, and Massachusetts to the northernmost point on Cape Cod:

Point	Latitude	Longitude
A .....	43°58' N.	67°22' W.
B .....	43°41' N.	68°00' W.
C .....	43°12' N.	69°00' W.
D .....	42°49' N.	69°40' W.
E .....	42°15.5' N.	69°40' W.
G .....	42°05.5' N.	70°14' W.
G1 .....	42°04.25' N.	70°17.22' W.
G2 .....	42°02.84' N.	70°16.1' W.
G3 .....	42°03.35' N.	70°14.2' W.

Along the coastline of Massachusetts, New Hampshire, Maine, and the seaward EEZ boundary back to point A.

(b) *EEZ Nearshore Management Area 2.* EEZ Nearshore Management Area 2 is defined by the area, including state and Federal waters that are near-shore in Southern New England, bounded by straight lines connecting the following points, in the order stated:

Point	Latitude	Longitude
H .....	41°40' N.	70°00' W.
I .....	41°15' N.	70°00' W.
J .....	41°21.5' N.	69°16' W.
K .....	41°10' N.	69°06.5' W.
L .....	40°55' N.	68°54' W.
M .....	40°27.5' N.	72°14' W.
N .....	40°45.5' N.	71°34' W.
O .....	41°07' N.	71°43' W.
P .....	41°06.5' N.	71°47' W.
Q .....	41°11'30" N.	71°47'15" W.
R .....	41°18'30" N.	71°54'30" W.

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From point “R” along the maritime boundary between Connecticut and Rhode Island to the coastal Connecticut/Rhode Island boundary and then back to point “H” along the Rhode Island and Massachusetts coast.

(c) *Area 2/3 Overlap*. The Area 2/3 Overlap is defined by the area, comprised entirely of Federal waters, bounded by straight lines connecting the following points, in the order stated:

Point	Latitude	Longitude
K .....	41°10' N.	69°06.5' W.
L .....	40°55' N.	68°54' W.
M .....	40°27.5' N.	72°14' W.
N .....	40°45.5' N.	71°34' W.

(d) *EEZ Offshore Management Area 3*. EEZ Offshore Management Area 3 is defined by the area, comprised entirely of Federal waters, bounded by straight lines connecting the following points, in the order stated:

Point	Latitude	Longitude
A .....	43°58' N.	67°22' W.
B .....	43°41' N.	68°00' W.
C .....	43°12' N.	69°00' W.
D .....	42°49' N.	69°40' W.
E .....	42°15.5' N.	69°40' W.
F .....	42°10' N.	69°56' W.
K .....	41°10' N.	69°06.5' W.
N .....	40°45.5' N.	71°34' W.
M .....	40°27.5' N.	72°14' W.
U .....	40°12.5' N.	72°48.5' W.
V .....	39°50' N.	73°01' W.
X .....	38°39.5' N.	73°40' W.
Y .....	38°12' N.	73°55' W.
Z .....	37°12' N.	74°44' W.
ZA .....	35°34' N.	74°51' W.
ZB .....	35°14.5' N.	75°31' W.
ZC .....	35°14.5' N.	71°24' W.

From point “ZC” along the seaward EEZ boundary to point “A”.

(e) *EEZ Nearshore Management Area 4*. EEZ Nearshore Management Area 4 is defined by the area, including state and Federal waters that are near-shore in the northern Mid-Atlantic, bounded by straight lines connecting the following points, in the order stated:

Point	Latitude	Longitude
M .....	40°27.5' N.	72°14' W.
N .....	40°45.5' N.	71°34' W.
O .....	41°07' N.	71°43' W.
P .....	41°06.5' N.	71°47' W.
S .....	40°58' N.	72°00' W.
T .....	41°00.5' N.	72°00' W.

From Point “T”, along the New York/New Jersey coast to Point “W”

W .....	39°50' N.	74°09' W.
V .....	39°50' N.	73°01' W.

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Point	Latitude	Longitude
U .....	40°12.5' N.	72°48.5' W.

From Point “U” back to Point “M”.

(f) *EEZ Nearshore Management Area 5*. EEZ Nearshore Management Area 5 is defined by the area, including state and Federal waters that are near-shore in the southern Mid-Atlantic, bounded by straight lines connecting the following points, in the order stated:

Point	Latitude	Longitude
W .....	39°50' N.	74°09' W.
V .....	39°50' N.	73°01' W.
X .....	38°39.5' N.	73°40' W.
Y .....	38°12' N.	73°55' W.
Z .....	37°12' N.	74°44' W.
ZA .....	35°34' N.	74°51' W.
ZB .....	35°14.5' N.	75°31' W.

From Point “ZB” along the coasts of North Carolina, Virginia, Maryland, Delaware, New Jersey back to Point “W”.

(g) *Nearshore Management Area 6*. The Nearshore Management Area 6 is defined by the area, including New York and Connecticut state waters, bounded by straight lines connecting the following points, in the order stated:

Point	Latitude	Longitude
T .....	41°00.5' N.	72°00' W.
S .....	40°58' N.	72°00' W.

From Point “S”, boundary follows the 3 mile limit of New York as it curves around Montauk Point to Point “P”

P .....	41°06.5' N.	71°47' W.
Q .....	41°11'30" N.	71°47'15" W.
R .....	41°18'30" N.	71°5'30" W.

From point “R”, along the maritime boundary between Connecticut and Rhode Island to the coast; then west along the coast of Connecticut to the western entrance of Long Island Sound; then east along the New York coast of Long Island Sound and back to Point “T”.

(h) *EEZ Nearshore Outer Cape Lobster Management Area*. EEZ Nearshore Outer Cape Lobster Management Area is defined by the area, including state and Federal waters off Cape Cod, bounded by straight lines connecting the following points, in the order stated:

Point	Latitude	Longitude
F .....	42°10' N.	69°56' W.
G .....	42°05.5' N.	70°14' W.
G1 .....	42°04.25' N.	70°17.22' W.
G2 .....	42°02.84' N.	70°16.1' W.
G3 .....	42°03.35' N.	70°14.2' W.

From Point G3 along the outer Cape Cod coast to Point H

H .....	41°40' N.	70°00' W.
I .....	41°15' N.	70°00' W.
J .....	41°21.5' N.	69°16' W.

From Point “J” back to Point “F”.

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(i) NMFS may, consistent with § 697.25, implement management measures necessary for each management area, in order to end overfishing and rebuild stocks of American lobster.

### § 697.19 Trap limits and trap tag requirements for vessels fishing with traps.

(a) *Trap limits for vessels fishing or authorized to fish in any Nearshore Management Area.* (1) Beginning January 5, 2000, through April 30, 2000, vessels fishing in any EEZ management area except EEZ Offshore Management Area 3, shall not fish with, deploy in, possess in, or haul back from such area more than 1,000 traps.

(2) Beginning May 1, 2000, vessels fishing in or issued a management area designation certificate or valid limited access American lobster permit specifying the EEZ Nearshore Management Area(s) and the Area 2/3 Overlap, or, only the Area 2/3 Overlap, shall not fish with, deploy in, possess in, or haul back from such area more than 800 traps.

(b) *Trap limits for vessels fishing or authorized to fish in the EEZ Offshore Management Area.* (1) Beginning January 5, 2000, through April 30, 2000, vessels fishing only EEZ Offshore Management Area 3, or, fishing only EEZ Offshore Management Area 3 and the Area 2/3 Overlap, shall not fish with, deploy in, possess in, or haul back from such area more than 2,000 traps.

(2) Beginning May 1, 2000, vessels fishing only in or issued a management area designation certificate or valid limited access American lobster permit specifying only EEZ Offshore Management Area 3, or, specifying only EEZ Offshore Management Area 3 and the Area 2/3 Overlap, shall not fish with, deploy in, possess in, or haul back from such area more than 1,800 traps.

(c) *Trap tag requirements for vessels fishing with traps.* Beginning May 1, 2000, any lobster trap fished in Federal waters must have a valid Federal lobster trap tag permanently attached to the trap bridge or central cross-member.

(d) In any fishing year, the maximum number of tags authorized for direct purchase by each permit holder is the applicable trap limit specified in para-

graphs (a) and (b) of this section plus an additional 10 percent to cover trap loss.

(e) *Exemption.* Any vessel issued an Area 5 Trap Waiver permit under § 697.4(p) is exempt from the provisions of this section.

[64 FR 68248, Dec. 6, 1999, as amended at 66 FR 14502, Mar. 13, 2001]

### § 697.20 Size, harvesting and landing requirements.

(a) *Condition.* By being issued a Federal limited access American lobster permit, the vessel owner is subject to all measures in this subpart, unless otherwise specified, regardless of where American lobsters were harvested.

(b) *Carapace length.* (1) The minimum carapace length for all American lobsters harvested in or from the EEZ is 3¼ inches (8.26 cm).

(2) The minimum carapace length for all American lobsters landed, harvested, or possessed by vessels issued a Federal limited access American lobster permit, is 3¼ inches (8.26 cm).

(3) The maximum carapace length for all American lobster harvested in or from EEZ Nearshore Management Area 1, as defined in § 697.18(a)(1), is 5 inches (12.7 cm). Any vessel fishing in or permitted to fish in EEZ Nearshore Management Area 1 must comply with the 5 inch (12.7 cm) maximum carapace length requirement regardless of where the lobsters are harvested.

(4) No person may ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any whole live American lobster that is smaller than the minimum size specified in paragraph (b) in this section.

(c) *Mutilation.* (1) Subject to the rebuttable presumption in § 697.7(c)(3), no person may remove meat or any body appendage from any American lobster harvested in or from the EEZ before, or at the time of landing, or have in possession any American lobster part other than whole lobsters, up to the time when a dealer first receives or possesses American lobster.

(2) Subject to the rebuttable presumption in § 697.7(c)(3), no owner, operator or person aboard a vessel issued a Federal American lobster permit may remove meat or any body appendage from any American lobster before

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or at the time of landing, or have in possession any American lobster part other than whole lobsters, up to the time when a dealer first receives or possesses American lobster.

(d) *Berried females.* (1) Any berried female harvested in or from the EEZ must be returned to the sea immediately.

(2) Any berried female harvested or possessed by a vessel issued a Federal limited access American lobster permit must be returned to the sea immediately.

(3) No vessel, or owner, operator or person aboard a vessel issued a Federal limited access American lobster permit may possess any berried female.

(4) No person may possess, ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any berried female as specified in paragraph (d) of this section.

(e) *Removal of eggs.* (1) No person may remove, including, but not limited to, the forcible removal and removal by chemicals or other substances or liquids, extruded eggs attached to the abdominal appendages from any female American lobster.

(2) No owner, operator or person aboard a vessel issued a Federal limited access American lobster permit may remove, including but not limited to, the forcible removal, and removal by chemicals or other substances or liquids, extruded eggs attached to the abdominal appendages from any female American lobster.

(3) No person may possess, ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any whole live American lobster that bears evidence of the removal of extruded eggs from its abdominal appendages as specified in paragraph (e) of this section.

(f) *Spearing.* (1) No person may spear any American lobster in the EEZ.

(2) No person on a vessel issued a Federal lobster license may spear a lobster.

(3) No person may harvest or possess any American lobster which has been speared in the EEZ.

(4) No person may possess, ship, transport, offer for sale, sell, or purchase, in interstate or foreign com-

merce, any American lobster which has been speared.

### § 697.21 Gear identification and marking, escape vent, maximum trap size, and ghost panel requirements.

(a) *Gear identification and marking.* All lobster gear deployed or possessed in the EEZ, or, deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit, and not permanently attached to the vessel must be legibly and indelibly marked with the following:

(1) *Identification.* Effective through April 30, 2000, all lobster gear must be marked with the following code of identification:

(i) A number assigned by the Regional Administrator; or

(ii) Whatever positive identification marking is required by the vessel's home-port state.

(2) *Identification and trap tagging.* Beginning May 1, 2000, lobster gear must be marked with a trap tag (as specified in § 697.19) with the following code of identification:

(i) A number assigned by the Regional Administrator; or

(ii) Whatever positive identification marking is required by the vessel's home-port state.

(b) *Deployment and gear configuration.* In the areas of the EEZ described in paragraph (b)(4) of this section, lobster trap trawls are to be displayed and configured as follows:

(1) Lobster trap trawls of three or fewer traps deployed in the EEZ must be attached to and marked with a single buoy.

(2) Lobster trap trawls consisting of more than three traps must have a radar reflector and a single flag or pennant on the westernmost end (marking the half compass circle from magnetic south through west, to and including north), while the easternmost end (meaning the half compass circle from magnetic north through east, to and including south) of an American lobster trap trawl must be configured with a radar reflector only. Standard tetrahedral corner radar reflectors of at least 8 inches (20.32 cm) (both in height and width, and made from metal) must be employed. (A copy of a diagram showing a standard tetrahedral corner

radar reflector is available upon request to the Office of the Regional Administrator.)

(3) No American lobster trap trawl shall exceed 1.5 nautical miles (2.78 km) in length, as measured from radar reflector to radar reflector.

(4) Gear deployment and configuration requirements specified in paragraphs (b)(1) through (b)(3) of this section apply in the following areas:

(i) *Gulf of Maine gear area.* Gulf of Maine gear area is defined as all waters of the EEZ north of 42°20' N. lat. seaward of a line drawn 12 nautical miles (22.2 km) from the baseline of the territorial sea;

(ii) *Georges Bank gear area.* Georges Bank gear area is defined as all waters of the EEZ south of 42°20' N. lat. and east of 70°00' W. long. or the outer boundary of the territorial sea, whichever lies farther east;

(iii) *Southern New England gear area.* Southern New England gear area is defined as all waters of the EEZ west of 70°00' W. long., east of 71°30' W. long. at a depth greater than 25 fathoms (45.72 m); and

(iv) *Mid-Atlantic gear area.* Mid-Atlantic gear area is defined as all waters of the EEZ, west of 71°30' W. long. and north of 36°33' N. lat. at a depth greater than 40 fathoms (73.15 m).

(c) *Escape vents.* (1) All American lobster traps deployed or possessed in the EEZ, or, deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit as specified under § 697.4, must include either of the following escape vents in the parlor section of the trap, located in such a manner that it will not be blocked or obstructed by any portion of the trap, associated gear, or the sea floor in normal use:

(i) A rectangular portal with an unobstructed opening not less than  $1\frac{15}{16}$  inches (4.92 cm) by  $5\frac{3}{4}$  inches (14.61 cm);

(ii) Two circular portals with unobstructed openings not less than  $2\frac{1}{16}$  inches (6.19 cm) in diameter.

(2) The Regional Administrator may, at the request of, or after consultation with, the Commission, approve and specify, through a technical amendment of this final rule, any other type of acceptable escape vent that the Regional Administrator finds to be con-

sistent with paragraphs (c)(1)(i) and (ii) of this section.

(d) *Ghost panel.* (1) Lobster traps not constructed entirely of wood (excluding heading or parlor twine and the escape vent) must contain a ghost panel located in the outer parlor(s) of the trap and not in the bottom of the trap constructed of, or fastened to the trap with, one of the following untreated materials: Wood lath, cotton, hemp, sisal or jute twine not greater than  $\frac{3}{16}$  inch (0.48 cm) in diameter, or non-stainless, uncoated ferrous metal not greater than  $\frac{3}{32}$  inch (0.24 cm) in diameter and covering a rectangular opening not less than  $3\frac{3}{4}$  inches (9.53 cm) by  $3\frac{3}{4}$  inches (9.53 cm). The door of the trap may serve as the ghost panel, if fastened with one of these materials.

(2) The Regional Administrator may, at the request of, or after consultation with, the Commission, approve and specify, through a technical amendment of this rule, any other design, mechanism, material, or other parameter that serves to create an escape portal not less than  $3\frac{3}{4}$  inches (9.53 cm) by  $3\frac{3}{4}$  inches (9.53 cm).

(e) *Maximum trap size.* (1) *EEZ Nearshore Management Area maximum trap size.* (i) Beginning January 5, 2000, American lobster traps deployed or possessed in the EEZ, or, deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit as specified under § 697.4, if deployed or possessed by a person or vessel permitted to fish in any EEZ Nearshore Management Area (Area 1, Outer Cape, Area 2, Area 4, Area 5, or Area 6) and the Area 2/3 Overlap, or only in the Area 2/3 Overlap shall not exceed 25,245 cubic inches (413,690 cubic centimeters) in volume, as measured on the outside portion of the trap, exclusive of the runners;

(ii) Beginning May 1, 2003, American lobster traps deployed or possessed in the EEZ, or, deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit as specified under § 697.4, if deployed or possessed by a person or vessel permitted to fish in any EEZ Nearshore Management Area (Area 1, Outer Cape, Area 2, Area 4, Area 5, or Area 6) and the Area 2/3 Overlap, or only in the

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Area 2/3 Overlap, shall not exceed 22,950 cubic inches (376,081 cubic centimeters) in volume as measured on the outside portion of the trap, exclusive of the runners.

(2) *EEZ Offshore Management Area maximum trap size.* (i) Beginning January 5, 2000, American lobster traps deployed or possessed in the EEZ, or, deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit as specified under § 697.4, if deployed or possessed by a person or vessel permitted to fish only in EEZ Offshore Management Area 3 or only in EEZ Offshore Management Area 3 and the Area 2/3 Overlap, shall not exceed 33,110 cubic inches (542,573 cubic centimeters) in volume as measured on the outside portion of the trap, exclusive of the runners;

(ii) Beginning May 1, 2003, American lobster traps deployed or possessed in the EEZ, or, deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit as specified under § 697.4, if deployed or possessed by a person or vessel permitted to fish only in EEZ Offshore Management Area 3 or only in EEZ Offshore Management Area 3 and the Area 2/3 Overlap, shall not exceed 30,100 cubic inches (493,249 cubic centimeters) in volume as measured on the outside portion of the trap, exclusive of the runners.

(f) *Enforcement action.* Unidentified, unmarked, unvented, improperly vented American lobster traps, or, beginning May 1, 2000, any untagged American lobster traps, or any lobster traps subject to the requirements and specifications of § 697.21, which fail to meet such requirements and specifications may be seized and disposed of in accordance with the provisions of part 219 of this title.

(g) *Exemption.* Any vessel issued an Area 5 Trap Waiver permit under § 697.4(p) is exempt from the provisions of this section.

[64 FR 68248, Dec. 6, 1999, as amended at 66 FR 14502, Mar. 13, 2001]

## § 697.22 Exempted fishing.

The Regional Administrator may exempt any person or vessel from the requirements of this part for the conduct

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of exempted fishing beneficial to the management of the American lobster, weakfish, Atlantic striped bass, Atlantic sturgeon, or horseshoe crab resource or fishery, pursuant to the provisions of § 600.745 of this chapter.

(a) The Regional Administrator may not grant such exemption unless it is determined that the purpose, design, and administration of the exemption is consistent with the objectives of any applicable stock rebuilding program, the provisions of the ACFCMA, the Magnuson-Stevens Act, and other applicable law, and that granting the exemption will not:

(1) Have a detrimental effect on the American lobster, Atlantic striped bass, weakfish, Atlantic sturgeon, or horseshoe crab resource or fishery; or

(2) Create significant enforcement problems.

(b) Each vessel participating in any exempted fishing activity is subject to all provisions of this part, except those explicitly relating to the purpose and nature of the exemption. The exemption will be specified in a letter issued by the Regional Administrator to each vessel participating in the exempted activity. This letter must be carried aboard the vessel seeking the benefit of such exemption. Exempted fishing activity shall be authorized pursuant to and consistent with § 600.745 of this chapter.

[64 FR 68248, Dec. 6, 1999, as amended at 66 FR 8911, Feb. 5, 2001]

## § 697.23 Restricted gear areas.

(a) Resolution of lobster gear conflicts with fisheries managed under the Magnuson-Stevens Act shall be done under provisions of § 648.55 of this chapter.

(b) *Restricted Gear Area I*—(1) *Duration*—(i) *Mobile Gear.* From October 1 through June 15 of each fishing year, no fishing vessel with mobile gear or person on a fishing vessel with mobile gear may fish, or be, in Restricted Gear Area I, as defined in paragraph (b)(2) of this section, unless transiting only, provided that all mobile gear is on board the vessel while inside the area.

(ii) *Lobster trap gear.* From June 16 through September 30 of each fishing year, no fishing vessel with lobster trap gear or person on a fishing vessel

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with lobster trap gear may fish, and no lobster trap gear may be deployed or remain, in Restricted Gear Area I as defined in paragraph (b)(2) of this section.

(2) *Definition of Restricted Gear Area I.* Restricted Gear Area I is defined by straight lines connecting the following points in the order stated:

### INSHORE BOUNDARY

Point to	Latitude	Longitude
120 .....	40°06.4' N.	68°35.8' W.
69 .....	40°07.9' N.	68°36.0' W.
70 .....	40°07.2' N.	68°38.4' W.
71 .....	40°06.9' N.	68°46.5' W.
72 .....	40°08.7' N.	68°49.6' W.
73 .....	40°08.1' N.	68°51.0' W.
74 .....	40°05.7' N.	68°52.4' W.
75 .....	40°03.6' N.	68°57.2' W.
76 .....	40°03.65' N.	69°00.0' W.
77 .....	40°04.35' N.	69°00.5' W.
78 .....	40°05.2' N.	69°00.5' W.
79 .....	40°05.3' N.	69°01.1' W.
80 .....	40°08.9' N.	69°01.75' W.
81 .....	40°11.0' N.	69°03.8' W.
82 .....	40°11.6' N.	69°05.4' W.
83 .....	40°10.25' N.	69°04.4' W.
84 .....	40°09.75' N.	69°04.15' W.
85 .....	40°08.45' N.	69°03.6' W.
86 .....	40°05.65' N.	69°03.55' W.
87 .....	40°04.1' N.	69°03.9' W.
88 .....	40°02.65' N.	69°05.6' W.
89 .....	40°02.00' N.	69°08.35' W.
90 .....	40°02.65' N.	69°11.15' W.
91 .....	40°00.05' N.	69°14.6' W.
92 .....	39°57.8' N.	69°20.35' W.
93 .....	39°56.65' N.	69°24.4' W.
94 .....	39°56.1' N.	69°26.35' W.
95 .....	39°56.55' N.	69°34.1' W.
96 .....	39°57.85' N.	69°35.5' W.
97 .....	40°00.65' N.	69°36.5' W.
98 .....	40°00.9' N.	69°37.3' W.
99 .....	39°59.15' N.	69°37.3' W.
100 .....	39°58.8' N.	69°38.45' W.
102 .....	39°56.2' N.	69°40.2' W.
103 .....	39°55.75' N.	69°41.4' W.
104 .....	39°56.7' N.	69°53.6' W.
105 .....	39°57.55' N.	69°54.05' W.
106 .....	39°57.4' N.	69°55.9' W.
107 .....	39°56.9' N.	69°57.45' W.
108 .....	39°58.25' N.	70°03.0' W.
110 .....	39°59.2' N.	70°04.9' W.
111 .....	40°00.7' N.	70°08.7' W.
112 .....	40°03.75' N.	70°10.15' W.
115 .....	40°05.2' N.	70°10.9' W.
116 .....	40°02.45' N.	70°14.1' W.
119 .....	40°02.75' N.	70°16.1' W.
to 181 .....	39°59.3' N.	70°14.0' W.

### OFFSHORE BOUNDARY

Point to	Latitude	Longitude
69 .....	40°07.9' N.	68°36.0' W.
120 .....	40°06.4' N.	68°35.8' W.
121 .....	40°05.25' N.	68°39.3' W.
122 .....	40°05.4' N.	68°44.5' W.
123 .....	40°06.0' N.	68°46.5' W.
124 .....	40°07.4' N.	68°49.6' W.
125 .....	40°05.55' N.	68°49.8' W.

### OFFSHORE BOUNDARY—Continued

Point to	Latitude	Longitude
126 .....	40°03.9' N.	68°51.7' W.
127 .....	40°02.25' N.	68°55.4' W.
128 .....	40°02.6' N.	69°00.0' W.
129 .....	40°02.75' N.	69°00.75' W.
130 .....	40°04.2' N.	69°01.75' W.
131 .....	40°06.15' N.	69°01.95' W.
132 .....	40°07.25' N.	69°02.0' W.
133 .....	40°08.5' N.	69°02.25' W.
134 .....	40°09.2' N.	69°02.95' W.
135 .....	40°09.75' N.	69°03.3' W.
136 .....	40°09.55' N.	69°03.85' W.
137 .....	40°08.4' N.	69°03.4' W.
138 .....	40°07.2' N.	69°03.3' W.
139 .....	40°06.0' N.	69°03.1' W.
140 .....	40°05.4' N.	69°03.05' W.
141 .....	40°04.8' N.	69°03.05' W.
142 .....	40°03.55' N.	69°03.55' W.
143 .....	40°01.9' N.	69°03.95' W.
144 .....	40°01.0' N.	69°04.4' W.
146 .....	39°59.9' N.	69°06.25' W.
147 .....	40°00.6' N.	69°10.05' W.
148 .....	39°59.25' N.	69°11.15' W.
149 .....	39°57.45' N.	69°16.05' W.
150 .....	39°56.1' N.	69°20.1' W.
151 .....	39°54.6' N.	69°25.65' W.
152 .....	39°54.65' N.	69°26.9' W.
153 .....	39°54.8' N.	69°30.95' W.
154 .....	39°54.35' N.	69°33.4' W.
155 .....	39°55.0' N.	69°34.9' W.
156 .....	39°56.55' N.	69°36.0' W.
157 .....	39°57.95' N.	69°36.45' W.
158 .....	39°58.75' N.	69°36.3' W.
159 .....	39°58.8' N.	69°36.95' W.
160 .....	39°57.95' N.	69°38.1' W.
161 .....	39°54.5' N.	69°38.25' W.
162 .....	39°53.6' N.	69°46.5' W.
163 .....	39°54.7' N.	69°50.0' W.
164 .....	39°55.25' N.	69°51.4' W.
165 .....	39°55.2' N.	69°53.1' W.
166 .....	39°54.85' N.	69°53.9' W.
167 .....	39°55.7' N.	69°54.9' W.
168 .....	39°56.15' N.	69°55.35' W.
169 .....	39°56.05' N.	69°56.25' W.
170 .....	39°55.3' N.	69°57.1' W.
171 .....	39°54.8' N.	69°58.6' W.
172 .....	39°56.05' N.	70°00.65' W.
173 .....	39°55.3' N.	70°02.95' W.
174 .....	39°56.9' N.	70°11.3' W.
175 .....	39°58.9' N.	70°11.5' W.
176 .....	39°59.6' N.	70°11.1' W.
177 .....	40°01.35' N.	70°11.2' W.
178 .....	40°02.6' N.	70°12.0' W.
179 .....	40°00.4' N.	70°12.3' W.
180 .....	39°59.7' N.	70°13.05' W.
181 .....	39°59.3' N.	70°14.0' W. to
119 .....	40°02.75' N.	70°16.1' W.

(c) *Restricted Gear Area II*—(1) *Duration*—(i) *Mobile Gear*. From November 27 through June 15 of each fishing year, no fishing vessel with mobile gear or person on a fishing vessel with mobile gear may fish, or be, in Restricted Gear Area II (as defined in paragraph (c)(2) of this section) unless transiting only, provided that all mobile gear is on board the vessel while inside the area.

(ii) *Lobster trap gear*. From June 16 through November 26 of each fishing

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year, no fishing vessel with lobster trap gear or person on a fishing vessel with lobster trap gear may fish, and no lobster trap gear may be deployed or remain, in Restricted Gear Area II as defined in paragraph (c)(2) of this section.

(2) *Definition of Restricted Gear Area II.* Restricted Gear Area II is defined by straight lines connecting the following points in the order stated:

INSHORE BOUNDARY

Point to	Latitude	Longitude
1 .....	39°59.3' N.	70°14.0' W.
49 .....	40°02.75' N.	70°16.1' W.
50 .....	40°00.7' N.	70°18.6' W.
51 .....	39°59.8' N.	70°21.75' W.
52 .....	39°59.75' N.	70°25.5' W.
53 .....	40°03.85' N.	70°28.75' W.
54 .....	40°00.55' N.	70°32.1' W.
55 .....	39°59.15' N.	70°34.45' W.
56 .....	39°58.9' N.	70°38.65' W.
57 .....	40°00.1' N.	70°45.1' W.
58 .....	40°00.5' N.	70°57.6' W.
59 .....	40°02.0' N.	71°01.3' W.
60 .....	39°59.3' N.	71°18.4' W.
61 .....	40°00.7' N.	71°19.8' W.
62 .....	39°57.5' N.	71°20.6' W.
63 .....	39°53.1' N.	71°36.1' W.
64 .....	39°52.6' N.	71°40.35' W.
65 .....	39°53.1' N.	71°42.7' W.
66 .....	39°46.95' N.	71°49.0' W.
67 .....	39°41.15' N.	71°57.1' W.
68 .....	39°35.45' N.	72°02.0' W.
69 .....	39°32.65' N.	72°06.1' W.
70 .....	39°29.75' N.	72°09.8' W.
to 48 .....	39°29.0' N.	72°09.25' W.

OFFSHORE BOUNDARY

Point to	Latitude	Longitude
49 .....	40°02.75' N.	70°16.1' W.
1 .....	39°59.3' N.	70°14.0' W.
2 .....	39°58.85' N.	70°15.2' W.
3 .....	39°59.3' N.	70°18.4' W.
4 .....	39°58.1' N.	70°19.4' W.
5 .....	39°57.0' N.	70°19.85' W.
6 .....	39°57.55' N.	70°21.25' W.
7 .....	39°57.5' N.	70°22.8' W.
8 .....	39°57.1' N.	70°25.4' W.
9 .....	39°57.65' N.	70°27.05' W.
10 .....	39°58.58' N.	70°27.7' W.
11 .....	40°00.65' N.	70°28.8' W.
12 .....	40°02.2' N.	70°29.15' W.
13 .....	40°01.0' N.	70°30.2' W.
14 .....	39°58.58' N.	70°31.85' W.
15 .....	39°57.05' N.	70°34.35' W.
16 .....	39°56.42' N.	70°36.8' W.
21 .....	39°58.15' N.	70°48.0' W.
24 .....	39°58.3' N.	70°51.1' W.
25 .....	39°58.1' N.	70°52.25' W.
26 .....	39°58.05' N.	70°53.55' W.
27 .....	39°58.4' N.	70°59.6' W.
28 .....	39°59.8' N.	71°01.05' W.
29 .....	39°58.2' N.	71°05.85' W.
30 .....	39°57.45' N.	71°12.15' W.
31 .....	39°57.2' N.	71°15.0' W.
32 .....	39°56.3' N.	71°18.95' W.

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OFFSHORE BOUNDARY—Continued

Point to	Latitude	Longitude
33 .....	39°51.4' N.	71°36.1' W.
34 .....	39°51.75' N.	71°41.5' W.
35 .....	39°50.05' N.	71°42.5' W.
36 .....	39°50.0' N.	71°45.0' W.
37 .....	39°48.95' N.	71°46.05' W.
38 .....	39°46.6' N.	71°46.1' W.
39 .....	39°43.5' N.	71°49.4' W.
40 .....	39°41.3' N.	71°55.0' W.
41 .....	39°39.0' N.	71°55.6' W.
42 .....	39°36.72' N.	71°58.25' W.
43 .....	39°35.15' N.	71°58.55' W.
44 .....	39°34.5' N.	72°00.75' W.
45 .....	39°32.2' N.	72°02.25' W.
46 .....	39°32.15' N.	72°04.1' W.
47 .....	39°28.5' N.	72°06.5' W.
48 .....	39°29.0' N.	72°09.25' W.
to 70 .....	39°29.75' N.	72°09.8' W.

(d) *Restricted Gear Area III*—(1) *Duration*—(i) *Mobile Gear.* From June 16 through November 26 of each fishing year, no fishing vessel with mobile gear or person on a fishing vessel with mobile gear may fish, or be, in Restricted Gear Area III (as defined in paragraph (d)(2) of this section) unless transiting only, provided that all mobile gear is on board the vessel while inside the area.

(ii) *Lobster trap gear.* From January 1 through April 30 of each fishing year, no fishing vessel with lobster trap gear or person on a fishing vessel with lobster trap gear may fish, and no lobster trap gear may be deployed or remain, in Restricted Gear Area III as defined in paragraph (d)(2) of this section.

(2) *Definition of Restricted Gear Area III.* Restricted Gear Area III is defined by straight lines connecting the following points in the order stated:

INSHORE BOUNDARY

Point to	Latitude	Longitude
49 .....	40°02.75' N.	70°16.1' W.
182 .....	40°05.6' N.	70°17.7' W.
183 .....	40°06.5' N.	70°40.05' W.
184 .....	40°11.05' N.	70°45.8' W.
185 .....	40°12.75' N.	70°55.05' W.
186 .....	40°10.7' N.	71°10.25' W.
187 .....	39°57.9' N.	71°28.7' W.
188 .....	39°55.6' N.	71°41.2' W.
189 .....	39°55.85' N.	71°45.0' W.
190 .....	39°53.75' N.	71°52.25' W.
191 .....	39°47.2' N.	72°01.6' W.
192 .....	39°33.65' N.	72°15.0' W.
to 70 .....	39°29.75' N.	72°09.8' W.

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Point to	Latitude	Longitude
182 .....	40°05.6' N.	70°17.7' W.



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## OFFSHORE BOUNDARY—Continued

Point to	Latitude	Longitude
49 .....	40°02.75' N.	70°16.1' W.
50 .....	40°00.7' N.	70°18.6' W.
51 .....	39°59.8' N.	70°21.75' W.
52 .....	39°59.75' N.	70°25.5' W.
53 .....	40°03.85' N.	70°28.75' W.
54 .....	40°00.55' N.	70°32.1' W.
55 .....	39°59.15' N.	70°34.45' W.
56 .....	39°58.9' N.	70°38.6' W.
57 .....	40°00.1' N.	70°45.1' W.
58 .....	40°00.5' N.	70°57.6' W.
59 .....	40°02.0' N.	71°01.3' W.
60 .....	39°59.3' N.	71°18.4' W.
61 .....	40°00.7' N.	71°19.8' W.
62 .....	39°57.5' N.	71°20.6' W.
63 .....	39°53.1' N.	71°36.1' W.
64 .....	39°52.6' N.	71°40.35' W.
65 .....	39°53.1' N.	71°42.7' W.
66 .....	39°46.95' N.	71°49.0' W.
67 .....	39°41.15' N.	71°57.1' W.
68 .....	39°35.45' N.	72°02.0' W.
69 .....	39°32.65' N.	72°06.1' W.
70 .....	39°29.75' N.	72°09.8' W.
to 192 .....	39°33.65' N.	72°15.0' W.

(e) *Restricted Gear Area IV*—(1) *Duration for Mobile Gear*. From June 16 through September 30 of each fishing year, no fishing vessel with mobile gear or person on a fishing vessel with mobile gear may fish, or be, in Restricted Gear Area IV (as defined in paragraph (e)(2) of this section) unless transiting only, provided that all mobile gear is on board the vessel while inside the area.

(2) *Definition of Restricted Gear Area IV*. Restricted Gear Area IV is defined by straight lines connecting the following points in the order stated:

## INSHORE BOUNDARY

Point	Latitude	Longitude
193 .....	40°13.60' N.	68°40.60' W.
194 .....	40°11.60' N.	68°53.00' W.
195 .....	40°14.00' N.	69°04.70' W.
196 .....	40°14.30' N.	69°05.80' W.
197 .....	40°05.50' N.	69°09.00' W.
198 .....	39°57.30' N.	69°25.10' W.
199 .....	40°00.40' N.	69°35.20' W.
200 .....	40°01.70' N.	69°35.40' W.
201 .....	40°01.70' N.	69°37.40' W.
202 .....	40°00.50' N.	69°38.80' W.
203 .....	40°01.30' N.	69°45.00' W.
204 .....	40°02.10' N.	70°45.00' W.
205 .....	40°07.60' N.	70°04.50' W.
206 .....	40°07.80' N.	70°09.20' W.
to 119 .....	40°02.75' N.	70°16.1' W.

## OFFSHORE BOUNDARY

Point to	Latitude	Longitude
193 .....	40°13.60' N.	68°40.60' W.
69 .....	40°07.90' N.	68°36.00' W.
70 .....	40°07.20' N.	68°38.40' W.

## OFFSHORE BOUNDARY—Continued

Point to	Latitude	Longitude
71 .....	40°06.90' N.	68°46.50' W.
72 .....	40°08.70' N.	68°49.60' W.
73 .....	40°08.10' N.	68°51.00' W.
74 .....	40°05.70' N.	68°52.40' W.
75 .....	40°03.60' N.	68°57.20' W.
76 .....	40°03.65' N.	69°00.00' W.
77 .....	40°04.35' N.	69°00.50' W.
78 .....	40°05.20' N.	69°00.50' W.
79 .....	40°05.30' N.	69°01.10' W.
80 .....	40°08.90' N.	69°01.75' W.
81 .....	40°11.00' N.	69°03.80' W.
82 .....	40°11.60' N.	69°05.40' W.
83 .....	40°10.25' N.	69°04.40' W.
84 .....	40°09.75' N.	69°04.15' W.
85 .....	40°08.45' N.	69°03.60' W.
86 .....	40°05.65' N.	69°03.55' W.
87 .....	40°04.10' N.	69°03.90' W.
88 .....	40°02.65' N.	69°05.60' W.
89 .....	40°02.00' N.	69°08.35' W.
90 .....	40°02.65' N.	69°11.15' W.
91 .....	40°00.05' N.	69°14.60' W.
92 .....	39°57.80' N.	69°20.35' W.
93 .....	39°56.75' N.	69°24.40' W.
94 .....	39°56.50' N.	69°26.35' W.
95 .....	39°56.80' N.	69°34.10' W.
96 .....	39°57.85' N.	69°35.05' W.
97 .....	40°00.65' N.	69°36.50' W.
98 .....	40°00.90' N.	69°37.30' W.
99 .....	39°59.15' N.	69°37.30' W.
100 .....	39°58.80' N.	69°38.45' W.
102 .....	39°56.20' N.	69°40.20' W.
103 .....	39°55.75' N.	69°41.40' W.
104 .....	39°56.70' N.	69°53.60' W.
105 .....	39°57.55' N.	69°54.05' W.
106 .....	39°57.40' N.	69°55.90' W.
107 .....	39°56.90' N.	69°57.45' W.
108 .....	39°58.25' N.	70°03.00' W.
110 .....	39°59.20' N.	70°04.90' W.
111 .....	40°00.70' N.	70°08.70' W.
112 .....	40°03.75' N.	70°10.15' W.
115 .....	40°05.20' N.	70°10.90' W.
116 .....	40°02.45' N.	70°14.1' W.
119 .....	40°02.75' N.	70°16.1' W.
to 206 .....	40°07.80' N.	70°09.20' W.

(f) *Carl N. Shuster Jr. Horseshoe Crab Reserve*. (1) No vessel or person may fish for horseshoe crabs in the area known as the Carl N. Shuster Jr. Horseshoe Crab Reserve bounded as follows:

(i) On the north by a straight line connecting points 39°14.6'N. lat., 74°30.9'W. long. (3 nm off of Peck Beach, NJ) and 39°14.6'N lat., 74°22.5'W. long.

(ii) On the east by a straight line connecting points 39°14.6'N. lat., 74°22.5'W. long. and 38°22.0'N. lat., 74°22.5'W. long.

(iii) On the south by a straight line connecting points 38°22.0'N. lat., 74°22.5'W. long. and 38°22.0'N. lat., 75°00.4'W. long. (3 nm off of Ocean City, MD).

(iv) On the west by the outermost boundary of state waters.

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(2) No vessel or person on a vessel with a trawl or dredge may possess horseshoe crabs in the area described in paragraph (f)(1) of this section.

(3) Horseshoe crabs caught in the area described in paragraph (f)(1) of this section must be returned immediately to the water without further harm.

[64 FR 68248, Dec. 6, 1999, as amended at 66 FR 8911, Feb. 5, 2001]

### § 697.24 Exempted waters for Maine State American lobster permits.

A person or vessel holding a valid permit or license issued by the State of Maine that lawfully permits that person to engage in commercial fishing for American lobster may, with the approval of the State of Maine, engage in commercial fishing for American lobsters in the following areas designated as EEZ, if such fishing is conducted in such waters in accordance with all other applicable Federal and State regulations:

(a) West of Monhegan Island in the area located north of the line 43.5 deg.42'08" N. lat., 69.5 deg.34'18" W. long., and 43.5 deg.42'15" N. lat., 69.5 deg.19'18" W. long.

(b) East of Monhegan Island in the area located west of the line 43.5 deg.44'00" N. lat., 69.5 deg.15'05" W. long., and 43.5 deg.48'10" N. lat., 69.5 deg.08'01" W. long.

(c) South of Vinalhaven in the area located west of the line 43.5 deg.52'1" N. lat., 68.5 deg.39'54" W. long., and 43.5 deg.48'10" N. lat., 67.5 deg.40'33" W. long.

(d) South of Boris Bubert Island in the area located north of the line 44.5 deg.19'15" N. lat., 67.5 deg.49'30" W. long., and 44.5 deg.23'45" N. lat., 67.5 deg.40'33" W. long.

### § 697.25 Adjustment to management measures.

(a) On or before February 15, 2001, and annually on or before February 15, thereafter, NMFS may, after consultation with the Commission, publish a proposed rule to implement additional or different management measures for Federal waters in any of the management areas specified in § 697.18 if it is determined such measures are necessary to achieve or be compatible with ISFMP objectives, or the ISFMP, to be

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consistent with the national standards of the Magnuson-Stevens Act, or to meet overfishing and rebuilding requirements of the Magnuson-Stevens Act. These management measures may include, but are not limited to, continued reductions of fishing effort or numbers of traps, increases in minimum or decreases in maximum size, increases in the escape vent size, decreases in the lobster trap size, closed areas, closed seasons, landing limits, trip limits and other management area-specific measures as may be identified and recommended by the Commission prior to December 1 of the previous year. After considering public comment, NMFS may publish a final rule to implement any such measures.

(b) At any other time, NMFS may publish a proposed rule, after consultation with the Commission, to implement any additional or different management measures in order to achieve ISFMP objectives or be compatible with Commission measures or recommendations or to be consistent with the national standards of the Magnuson-Stevens Act, or to meet overfishing and rebuilding requirements of the Magnuson-Stevens Act. After considering public comments, NMFS may publish a final rule to implement any such measures.

(c) Notwithstanding other provisions of this part, NMFS may publish any additional or different management measures as described herein without prior public comment, pursuant to and consistent with 5 U.S.C. 553.

### § 697.26 EEZ Nearshore Management Area 5 Trap Waiver.

(a) *Eligibility.* Vessels eligible for limited access lobster permits under § 697.4(a)(1) and limited access black sea bass permits under § 648.4(a)(7)(i) of this chapter may request an Area 5 Trap Waiver Permit, under the procedures described in § 697.4.

(b) *Restrictions.* A vessel issued an Area 5 Trap Waiver permit under this section may engage in trap fishing for black sea bass in EEZ Nearshore Management Area 5 and is exempt from the provisions of § 697.19 and § 697.21 if such fishing is conducted in accordance with all other provisions of this section and all other Federal and state laws and

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regulations applicable to lobster and black sea bass fishing.

(1) A vessel issued a permit under this section may retain, land and sell an incidental allowance of lobster

equal to the non-trap harvest restrictions specified in § 697.17(a).

(2) A vessel issued a permit under this section may not possess on board or deploy bait or baited traps.

[66 FR 14502, Mar. 13, 2001]